

## **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application in view of the following remarks. This communication is believed to be responsive to all issues raised in the 6/28/06 Final Office Action. Applicant appreciates the withdrawal of the previous claim objections and §112 rejections in the Final Office Action.

### **§103 REJECTIONS**

Claims 1-3, 5-15, 17-21, 23-28, 30-32, 34-36 and 38 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,757,824 to England et al ('824) in view of U.S. Patent No. 6,167,567 to Chiles et al ('567).

Claims 1-3, 5-15, 17-21, 23-28, 30-32, 34-36 and 38 were alternatively or additionally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,327,652 to England et al ('652) in view of U.S. Patent No. 6,167,567 to Chiles et al ('567):

Applicant respectfully notes that both the '824 and '652 patents fall under the §103(c) exception and are disqualified as prior art relative to the present application. Accordingly, neither of the '824 and '652 patents can be utilized as a basis for rejecting claims of the present application.

'824 is a patent that issued on 6/29/04. '652 is a patent that issued on 12/4/01. The present application was filed on 11/16/01, which is prior to the issue dates of both the '824 and '652 patents. Accordingly, if '824 and '652 constitute prior art relative to the present application it must be under §102(e)(2) which states:

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or **(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent**, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or

The Office makes a §103(a) rejection based upon '824 and/or '652, however, §103(c) states:

(c)  
(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The present application was and is 100% assigned to Microsoft Corporation. Both '824 and '652 were subject to an obligation of assignment to Microsoft Corp. of 100% interest at the time of filing of the present application. In support of this position, Applicant includes with this communication, copies of the patent assignments for both '824 and '652, and for the present application. Based on the above provided facts and citations, Applicant respectfully submits that both '824 and '652 are disqualified as prior art relative to the present application. Accordingly, Applicant respectfully requests that the §103 rejection based upon '824 and '652 be withdrawn. Therefore, Applicant respectfully submits that the art of record fails to teach or suggest the features of the pending claims and requests allowance thereof.

## CONCLUSION

For at least the foregoing reasons, the pending claims are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections, and an early notice of allowance.

If there are any issues that would prevent allowance of this case, the Examiner is requested to contact the undersigned attorney to resolve them.

Respectfully Submitted,

Date: 8/28/08

By:   
Paul W. Mitchell  
Lee & Hayes, pllc  
Reg. No. 44,453  
(509) 324-9256 ext. 237

### Attachments:

- patent assignment for '824;
- patent assignment for '652;
- patent assignment for the present application.

**ATTACHMENT A**

**RECORDED ASSIGNMENT US PATENT 6,757,824 (S/N 09/459,242)**



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

MARCH 20, 2000

PTAS

LEE & HAYES, PLLC  
LEWIS C. LEE  
421 W. RIVERSIDE AVE  
SUITE 500  
SPOKANE, WA 99201



\*101235119A\*

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RECORDATION DATE: 12/10/1999

REEL/FRAME: 010458/0213  
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

**ASSIGNOR:**

ENGLAND, PAUL

DOC DATE: 12/08/1999

**ASSIGNEE:**

MICROSOFT CORPORATION  
ONE MICROSOFT WAY  
REDMOND, WASHINGTON 98052

SERIAL NUMBER: 09459242

FILING DATE: 12/10/1999

PATENT NUMBER:

ISSUE DATE:

MARY BENTON, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

12-30-1999

SHEET

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Y

EL472378481

101235119

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof

## 1. Name of Conveying Part(ies):

Paul England

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

## 3. Nature of conveyance:

- ☒ Assignment ☐ Security Agreement  
☐ Merger ☐ Change of Name  
☐ Other

Execution Date: 12/08/1999

## 2. Name and address of receiving party(ies):

Name: Microsoft Corporation

Internal Address:

Street Address: One Microsoft Way

City: Redmond State: WA Zip: 98052

Additional names(s) & address(es) attached: ☐ Yes ☒ No

Jc564 U.S. PTO

09/459242

12/10/99

## 4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: 12/08/1999

## A. Patent Application No.(s):

Additional numbers attached: ☐ Yes ☒ No

## B. Patent No.(s)

Additional numbers attached: ☐ Yes ☒ No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Lewis C. Lee

Internal Address: Lee &amp; Hayes, PLLC

Street Address: 421 W. Riverside Ave  
Suite 500

City: Spokane State: WA Zip: 99201

## 6. Total number of applications and patents involved.....1

## 7. Total fee (37 CFR 3.41).....\$40.00

☐ Enclosed☒ Authorized to be charged to deposit account

## 8. Deposit account number: 50-0463

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## 9. Statement and Signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Lewis C. Lee

Name of Person Signing

Signature

Dec 16, 1999

Date

09/459242

00000021

40.00 CH

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Commissioner of Patents & Trademarks, Box Assignments  
Washington, D.C. 20231

1                   **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

2   Inventorship ..... England  
3   Applicant ..... Microsoft Corporation  
4   Attorney's Docket No. .... MS1-431US  
5   Title: Client-Side Boot Domains and Boot Rules

6                   **PATENT ASSIGNMENT**

7                   **PARTIES TO THE ASSIGNMENT**

8                   Assignor(s):

9                   Paul England  
10                  16659 Northrup Way  
11                  Bellevue, WA 98008

12                  Assignee:

13                  Microsoft Corporation  
14                  A Corporation in the State of Washington  
15                  One Microsoft Way  
16                  Redmond, WA 98052

17                  **AGREEMENT**

18                  WHEREAS, ASSIGNOR(S) (listed above) are inventor(s) of an invention  
19                  entitled "Client-Side Boot Domains and Boot Rules," as described and claimed in  
20                  the specification forming part of an application for United States letters patent  
21                  executed herewith;

22                  WHEREAS, Microsoft Corporation (hereinafter referred to as  
23                  ASSIGNEE), a corporation of the State of Washington having a place of business  
24                  at One Microsoft Way, Redmond, WA 98052, is desirous of acquiring the entire  
25                  right, title and interest in and to the invention and in and to any letters patent that  
                    may be granted therefor in the United States and in any and all foreign countries;

                    NOW, THEREFORE, in exchange for good and valuable consideration, the  
                    receipt of which is hereby acknowledged, ASSIGNOR(S) hereby sell, assign and

1 transfer unto ASSIGNEE, the entire right, title and interest in and to said  
2 invention, said application and any and all letters patent which may be granted for  
3 said invention in the United States of America and its territorial possessions and in  
4 any and all foreign countries, and in any and all divisions, reissues and  
5 continuations thereof, including the right to file foreign applications directly in the  
6 name of ASSIGNEE and to claim priority rights deriving from said United States  
7 application to which said foreign applications are entitled by virtue of international  
8 convention, treaty or otherwise, said invention, application and all letters patent on  
9 said invention to be held and enjoyed by ASSIGNEE and its successors and  
10 assigns for their use and benefit and of their successors and assigns as fully and  
11 entirely as the same would have been held and enjoyed by ASSIGNOR(S) had this  
12 assignment, transfer and sale not been made. ASSIGNOR(S) hereby authorize  
13 and request the Commissioner of Patents and Trademarks to issue all letters patent  
14 on said invention to ASSIGNEE. ASSIGNOR(S) agree to execute all instruments  
15 and documents required for the making and prosecution of applications for United  
16 States and foreign letters patent on said invention, for litigation regarding said  
17 letters patent, or for the purpose of protecting title to said invention or letters  
18 patent therefor.

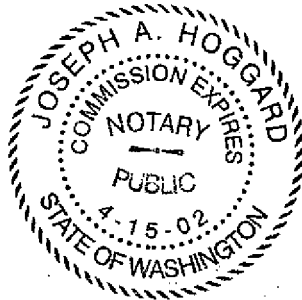


\*\*\*\*\*

1 \_\_\_\_\_  
2 12/8/99  
3 Date Paul England

4 State of Washington )  
5 ) ss.  
6 County of King )

7 I certify that I know or have satisfactory evidence that Paul England is the person  
8 who appeared before me, and said person acknowledged that he or she signed this  
9 instrument and acknowledged it to be his or her free and voluntary act for the uses  
10 and purposes mentioned in the instrument.  
11



8 Dated DECEMBER 8, 1999

9 Signature of  
10 Notary Public

11 My appointment expires April 15, 2002

**ATTACHMENT B**

**RECORDED ASSIGNMENT US PATENT 6,327,652 (S/N 09/227,611)**



777.206 US1 16521  
UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

JUNE 25, 1999

PTAS

SCHWEGMAN, LUNDBERG, WOESSNER  
& KLUTH, P.A.  
BRADLEY A. FORREST  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402



\*101016416A\*

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RECORDATION DATE: 04/19/1999

REEL/FRAME: 9895/0104  
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

ENGLAND, PAUL

DOC DATE: 03/31/1999

ASSIGNOR:

DETREVILLE, JOHN D.

DOC DATE: 03/03/1999

ASSIGNOR:

LAMPSON, BUTLER W.

DOC DATE: 03/31/1999

ASSIGNEE:

MICROSOFT CORPORATION  
ONE MICROSOFT WAY  
REDMOND, WASHINGTON 98052-6399

SERIAL NUMBER: 09227611

PATENT NUMBER:

FILING DATE: 01/08/1999

ISSUE DATE:

Schwegman, Lundberg,  
Woessner & Kluth, P.A.

JUL 12 1999

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9895/0104 PAGE 2

KIMBERLY WHITE, EXAMINER  
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4-19-99

04-22-1999

Atty Ref/Docket No.: 777.206US1



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1. Name of conveying party(ies):

Paul England, John D. DeTreville and Butler W. Lampson

2. Name and address of receiving party(ies):

Name: Microsoft Corporation

OPR/FINANCE

Additional name(s) of conveying party(ies) attached? [ ] Yes [X] No

Street Address: One Microsoft Way

3. Nature of conveyance:

[X] Assignment

[ ] Merger

[ ] Security Agreement

[ ] Change of Name

[ ] Other

City: Redmond State: WA ZIP: 98052-6399

Additional name(s) & address(es) attached? [ ] Yes [X] No

Execution Date: March 31, 1999, March 3, 1999, March 31, 1999

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

Serial No. 09/227,611, filed January 8, 1999

Additional numbers attached? [ ] Yes [X] No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Bradley A. Forrest

Address: Schwegman, Lundberg, Woessner & Kluth, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

[X] Enclosed

[ ] Authorized to be charged to deposit account

8. Please charge any additional fees or credit any overpayments to our  
Deposit account number: 19-0743

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Bradley A. Forrest/Reg. No. 30,837

Name of Person Signing

Signature

Date

Total number of pages including cover sheet: 4

OMB No. 0651-0011 (exp. 4/94)

04/22/1999 DNGUYEN 00000098 09227611

01 FC:581

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## ASSIGNMENT

WHEREAS, we, Paul England, John D. DeTreville and Butler W. Lampson (hereinafter referred to as ASSIGNORS), having post office addresses of 16659 Northup Way, Bellevue, WA 98008, Administration, 1215 E. Aloha St., Seattle, WA 98102, Administration and 180 Lake View Ave., Cambridge, MA 02138, Administration respectively, are the joint inventors of an invention entitled "LOADING AND IDENTIFYING A DIGITAL RIGHTS MANAGEMENT OPERATING SYSTEM", as described and claimed in the specification forming part of an application for United States letters patent filed January 8, 1999 and assigned serial number 09/227,611;

WHEREAS, Microsoft Corporation (hereinafter referred to as ASSIGNEE), a corporation of the State of Washington having a place of business at One Microsoft Way, Redmond, WA 98052-6399, is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNORS hereby sell, assign and transfer unto said ASSIGNEE, the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer and sale not been made. ASSIGNORS hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNORS agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 3<sup>rd</sup> day of MARCH, 1999.

Paul England

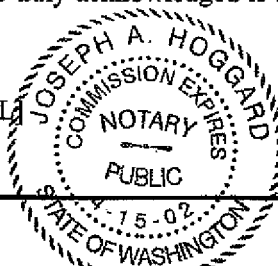
STATE OF WASHINGTON

)ss.

COUNTY OF KING

On this 3<sup>rd</sup> day of MARCH, 1999 before me personally appeared Paul England to me known and known to me to be the person described in and who executed the foregoing instrument, and he/she duly acknowledged to me that he/she executed the same for the uses and purposes therein set forth.

[SEAL]



Joseph A. Hoggard  
Notary Public

IN TESTIMONY WHEREOF, I have hereunto set my hand this 3<sup>rd</sup> day of March, 1999.

John D. DeTreville

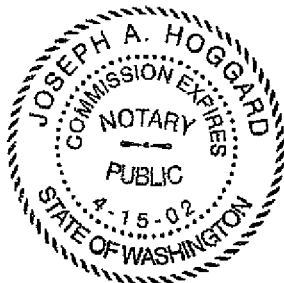
STATE OF WASHINGTON

)ss.

COUNTY OF KING

On this 3<sup>rd</sup> day of MARCH, 1999 before me personally appeared John D. DeTreville to me known and known to me to be the person described in and who executed the foregoing instrument, and he/she duly acknowledged to me that he/she executed the same for the uses and purposes therein set forth.

[SEAL]



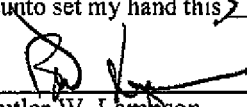
Joseph A. Hoggard  
Notary Public

ASSIGNMENT  
Applicant:  
Invention:

Paul England et al.  
LOADING AND IDENTIFYING A DIGITAL RIGHT'S MANAGEMENT OPERATING SYSTEM

Docket No.: 777.206US1  
Page 3 of 3

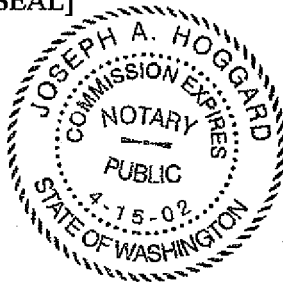
IN TESTIMONY WHEREOF, I have hereunto set my hand this 31<sup>ST</sup> day of MARCH, 1999.

  
Butler W. Lampson

STATE OF WASHINGTON  
COUNTY OF KING )ss.

On this 31<sup>ST</sup> day of MARCH, 1999 before me personally appeared Butler W. Lampson to me known and known to me to be the person described in and who executed the foregoing instrument, and he/she duly acknowledged to me that he/she executed the same for the uses and purposes therein set forth.

[SEAL]



  
Notary Public



**ATTACHMENT C**

**RECORDED ASSIGNMENT US PATENT APPLICATION  
S/N 09/993,373**



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

Present Appl.

APRIL 09, 2002

PTAS

Chief Information Officer  
Washington, DC 20231  
www.uspto.gov

LEE & HAYES, PLLC  
ALLAN T. SPONSELLER  
421 WEST RIVERSIDE AVENUE  
SUITE 500  
SPOKANE, WA 99201



\*102016430A\*

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RECORDATION DATE: 01/28/2002

REEL/FRAME: 012564/0589  
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
ENGLAND, PAUL

DOC DATE: 12/13/2001

ASSIGNOR:  
PEINADO, MARCUS

DOC DATE: 12/27/2001

ASSIGNOR:  
SIMON, DANIEL R.

DOC DATE: 12/19/2001

ASSIGNOR:  
BENALOH, JOSH D.

DOC DATE: 12/19/2001

ASSIGNEE:  
MICROSOFT CORPORATION  
ONE MICROSOFT WAY  
REDMOND, WASHINGTON 98052

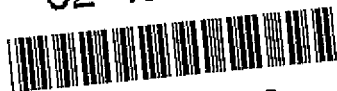
SERIAL NUMBER: 09993373  
PATENT NUMBER:

FILING DATE: 11/16/2001  
ISSUE DATE:

012564/0589 PAGE 2

ANTIONE ROYALL, EXAMINER  
ASSIGNMENT DIVISION  
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02-12-2002



102016430

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(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

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U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

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## 1. Name of conveying party(ies):

Paul England  
Marcus Peinado  
Daniel R. Simon  
Josh D. Benaloh

1-28-02

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

## 3. Nature of conveyance:

- ☒ Assignment ☐ Merger  
☐ Security Agreement ☐ Change of Name  
☐ Other \_\_\_\_\_

Execution Date: 12/13/01; 12/27/01; 12/19/01

## 2. Name and address of receiving party(ies)

Name: Microsoft Corporation

Internal Address: \_\_\_\_\_

Street Address: One Microsoft Way

City: Redmond State: WA Zip: 98052

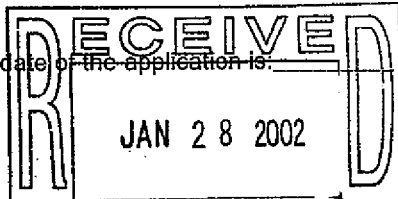
Additional name(s) & address(es) attached? ☐ Yes ☒ No

## 4. Application number(s) or patent number(s): 09/993,373

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Allan T. Sponseller, Reg. #38,318

Internal Address: Lee &amp; Hayes, PLLC

Street Address: 421 West Riverside Avenue

Suite 500

City: Spokane State: WA Zip: 99201

## 6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41).....\$ 40.00

- ☒ Enclosed  
☐ Authorized to be charged to deposit account

8. Deposit account number: 12-0769

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## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Allan T. Sponseller, Reg. #38,318

Name of Person Signing

Signature

1/7/02

Date

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02/12/2002 LMUELLER 00000043 09993373

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40.00 DP

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Serial Number .....09/993,373  
Filing Date..... Nov 16, 2001  
Inventorship ..... England et al.  
Applicant..... Microsoft Corporation  
Attorney's Docket No. .... MS1-954US  
MSDocket No. .... 164211.1  
Title: Operating System Upgrades in a Trusted Operating System Environment

**PATENT ASSIGNMENT**

**PARTIES TO THE ASSIGNMENT**

**Assignor(s):**

Paul England  
16659 Northrup Way  
Bellevue, WA 98008

Marcus Peinado  
7 - 168th Avenue NE  
Bellevue, WA 98008

Daniel R. Simon  
16340 NE 83rd St., Apt. E277  
Redmond, WA 98052

Josh D. Benaloh  
5028 159th Ct NE  
Redmond, WA 98052

**Assignee:**

Microsoft Corporation  
Corporation in the State of Washington  
One Microsoft Way  
Redmond, WA 98052


**AGREEMENT**

WHEREAS, ASSIGNOR(S) (listed above) are inventor(s) of an invention entitled "Operating System Upgrades in a Trusted Operating System Environment," as described and claimed in the specification forming part of an application for United States letters patent referenced above;


WHEREAS, Microsoft Corporation (hereinafter referred to as ASSIGNEE), a corporation of the State of Washington having a place of business at One Microsoft Way, Redmond, WA 98052, is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR(S) hereby sell, assign and transfer unto ASSIGNEE, the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNOR(S) had this assignment, transfer and sale not been made. ASSIGNOR(S) hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNOR(S) agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

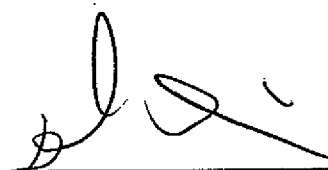
12/13/2001  
Date

  
Paul England

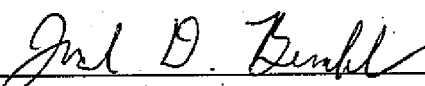
12/27/2001  
Date

  
Marcus Peinado

Dec 19/01  
Date

  
Daniel R. Simon

Dec. 19, 2001  
Date

  
Josh D. Benaloh